

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

DENNIS EHLERT, Ph.D.,

Plaintiff,

v.

Case No. 3:07cv765

VIRGINIA STATE UNIVERSITY,

Defendant.

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO CONSOLIDATE PURSUANT TO RULE 42(a)**

The defendant, Virginia State University (“VSU” or “University”), by counsel and pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, files this memorandum in support of the motion seeking to consolidate the instant matter with Beverly T. Chappell, Ph.D v. Virginia State University, Civil Action No.: 3:07cv389. Both plaintiffs in the matters sought to be consolidated (Ehlert and Chappell) are represented by the same counsel and join in this motion. For the following reasons (which are more fully set forth below), the parties respectfully request that the motion be granted:

1. Both cases involve common issues of fact;
2. Both cases involve common issues of law; and
3. Consolidation is necessary to avoid unnecessary cost and/or delay.

I. Both Cases Involve Common Issues Of Fact And Law

The factual allegations contained in the Complaint filed in the instant matter, as well as the First Amended Complaint filed in the *Chappell* case, are virtually identical. For example, both Ehlert and Chappell previously were professors in the same department (Educational Leadership) at VSU (Ehlert Complaint, ¶¶ 8-9; Chappell First Amended Complaint, ¶¶ 8-9). The “structural hierarchy” and/or supervisory chain of command for both plaintiffs are also alleged to be the same (Ehlert Complaint, ¶¶ 9-11; Chappell First Amended Complaint, ¶¶ 9-11). Moreover, Ehlert and Chappell allege the same purported violation of Title VII – i.e., that they each were allegedly discriminated against based on their race (Caucasian) when VSU denied their applications for hire to their former positions at the University (Ehlert Complaint, ¶¶ 22-23; Chappell First Amended Complaint, ¶¶ 23-24).

The issues of law involved in both cases also are the same. For example, motions filed on behalf of VSU in both the *Ehlert* and *Chappell* cases are currently pending asking this Court to dismiss each matter for, among other things, failure to state a claim. Further, counsel for both plaintiffs has stated that the sole claim to be decided in each case is the denial of each plaintiff’s application to his or her former position at VSU. *See, e.g.*, Plaintiff’s Memorandum in Opposition to Defendant’s Motion to Dismiss, p. 4 (Ehlert) and p. 22 (Chappell).

In light of the foregoing, both the *Ehlert* and *Chappell* cases involve common issues of fact and law and consolidation is thus appropriate.

II. Consolidation Is Necessary To Avoid Unnecessary Cost Or Delay

The *Ehlert* and *Chappell* cases currently are in similar stages of litigation. For example, neither case has yet been set for trial. Moreover, the Initial Pretrial Conference for each case has been scheduled for the same day (March 13, 2008). Consolidating these cases at this time

therefore would cause no unnecessary delays to the Court and, in fact, would instead streamline the resolution of both matters by avoiding the need for duplicative proceedings (such as the aforementioned pretrial conferences) and filing of virtually identical motions and/or other pleadings (*e.g.*, motions for summary judgment).

III. Conclusion

For the reasons set forth herein, the parties respectfully request that the *Ehlert* and *Chappell* matters be consolidated pursuant to Fed. R. Civ. P. Rule 42(a) and that the agreed sketch order submitted herewith be entered by the Court.

